IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

TEVA PHARMACEUTICALS INTERNATIONAL GMBH, CEPHALON, LLC, and EAGLE PHARMACEUTICALS, INC.,	)	
Plaintiffs,	)	
v.	)	C.A. No. 23-490-JLH
	)	C.A. No. 23-633-JLH
BENDARX CORP.,	)	
Defendant.	)	

STIPULATION AND ~~[PROPOSED]~~ ORDER

Plaintiffs Teva Pharmaceuticals International GmbH, Cephalon, LLC, and Eagle Pharmaceuticals, Inc. (collectively, "Plaintiffs") and Defendant BendaRx Corp. ("BendaRx") by their undersigned counsel, stipulate and agree as follows:

WHEREAS, after receiving Notice of Paragraph IV Certifications, Plaintiffs filed Complaints (C.A. No. 23-490-JLH, D.I. 8; C.A. No. 23-633-JLH, D.I. 1) against BendaRx in the above-captioned actions, asserting infringement of U.S. Patent Nos. 8,076,366 (the "#366 Patent") and 9,572,887 (the "#887 Patent"), among others;

WHEREAS, BendaRx represents that the New Drug Application ("NDA") No. 215291 produced in these actions accurately describes the drug product sought to be marketed upon approval of that application;

NOW THEREFORE, Plaintiffs and BendaRx hereby stipulate and agree, subject to the approval of the Court, as follows:

1. To conserve judicial resources and to avoid the time and expense of further litigation related to the #366 and #887 Patents, Plaintiffs stipulate to dismissal of Counts XVII, XVIII, XIX, and XX of Plaintiffs' Complaints (C.A. No. 23-490-JLH, D.I. 8; C.A. No. 23-633-JLH, D.I. 1) asserting infringement of the #366 and #887 patents in connection with the products that are the subject of NDA No. 215291 (the "BendaRx NDA Products" as defined in paragraph 2, and such products only) with prejudice.

2. For clarity, the BendaRx NDA Products mean the products as described in NDA No. 215291 as produced by BendaRx in this litigation on August 2, 2023, including any amendments and supplements thereto but excluding amendments and supplements thereto that (1) change the dosage form (*i.e.*, the physical form in which a drug is produced and dispensed, such as a tablet, a capsule, a lyophilized powder, or a liquid injectable) of those products, (2) materially alter the freeze drying process used during preparation of the BendaRx NDA Products, and/or (3) otherwise alter the basis for NDA No. 215291's

Paragraph IV certifications or assertions of non-infringement of the #366 and #887 Patents.

3. The parties agree that this stipulation does not require the parties to submit further briefing regarding BendaRx's motions to dismiss (C.A. No. 23-490-JLH, D.I. 12; C.A. No. 23-633-JLH, D.I. 10).

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Dated: January 19, 2024

IT IS SO ORDERED this 22nd day of January, 2024.

The Honorable Jennifer L. Hall
United States District Judge